

REMARKS / ARGUMENTS

Before this amendment, claims 1-19 were pending. With this amendment, claims 10 and 14-19 have been cancelled, and new claims 21-24 have been added. Claims 1 and 11-13 have been amended. All of these amendments are necessary to place the claims in better condition for allowance. With this amendment, claims 1-9, 11-13, and 21-24 are pending.

Claim 1 has been amended to delete "superposed." Claim 1 has been amended by insertion of "dry" in b) between "a" and "hydrophilic". Support for the insertion of "dry" can be found in the specification on page 8, line 11. Claim 1 has been amended by insertion of "; and d) a seal upon said receptacle;" for which support can be found in as-filed claim 10 and in the specification on page 12, lines 10-12. Claim 1 has been amended by insertion of "wherein said medium is storable without germination of said seed" for which support can be found on page 9, lines 16-17 and on page 11, line 8.

Claims 11-13 have been amended to delete the "0" in "10" to correct the dependency with cancelled claim 10 and amended claim 1.

New claim 21, which has been added, is directed to the seal being plastic. Support can be found in the specification on page 12, line 11.

New claim 22, which has been added, is directed to the seed-bearing substrate being dry. Support can be found in the specification on page 7, lines 3, 7, 9, 14, 17-18, and 23.

New claim 23, which has been added, is directed to the seal regulating moisture during germination. Support can be found in the specification on page 6, lines 12-14.

New claim 24, which has been added, is directed to the seed-support medium being storable without germination of the seed until a desired time when aqueous solution is applied. Support can be found in the specification on page 9, lines 16-18.

The amendments to the claims do not add new matter.

Rejections Under 35 U.S.C. § 102(b)

Claims 1, 5, 9-12, 13 (see above), 14, 18, and 19 were rejected under 35 U.S.C. 102(b) as being anticipated by Nash et al. (GB 2216378). The Office Action states that regarding claims 1 and 14, Nash et al. teaches a seed-support medium comprising: as seed-bearing (Nash Fig. 2 #21) substrate (Nash page 31 line 7-8) superposed upon a hydrophilic cellular substrate (Nash Fig. 2 #18) contained within a porous, cup-shaped, rigid modular receptacle (Nash Fig. 2 #12 and page 19 line 11-12). Applicant respectfully traverses these rejections and requests reconsideration.

Nash does not teach a seed-support medium comprising: as seed-bearing substrate superposed upon a hydrophilic cellular substrate contained within a porous, cup-shaped, rigid modular receptacle. More generally, Nash does not teach a seed-bearing substrate superposed upon a hydrophilic cellular substrate. The seed of Nash is “in” a support medium (Nash: Fig. 2 #21, page 10, line 9; page 12, line 23; page 14, line 17; page 14, line 22; page 15, line 4; page 15, line 17; page 20, line 26; and page 21, lines 1-4), but never upon a support medium. To clarify that claim 1 refers to the seed-bearing substrate being upon the hydrophilic cellular substrate, the word “superposed” has been removed from claim 1. Nash et al. does not teach every element and limitation of claim 1 thereby obviating this rejection.

Claim 14 has been cancelled, thereby obviating the rejection of claim 14. Claims 18 and 19 have also been cancelled, thereby obviating the rejections of claims 18 and 19. Claim 10 has been cancelled, thereby obviating the rejection of claim 10. Claims 5 and 9 and amended claims 11-13 are dependent upon claim 1, thereby obviating these rejections.

Rejections Under 35 U.S.C. § 103(a)

Claims 2-4, 6-8, and 15-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nash et al. (GB 2216378) in view of Obonai et al. (U.S. 6,615,539). Applicant respectfully traverses these rejections and requests reconsideration.

Claims 2-4 and 6-8 are dependent upon amended claim 1, therefore modifying the teachings of Nash et al. with the teachings of Obonai et al. does not teach every element and

limitation of any of claims 2-4 and 6-8, thereby obviating these rejections. Claims 15-17 have been cancelled, thereby obviating the rejections of these claims.

The examiner has not demonstrated references that teach all of the limitations of claims 2-4 and 6-8. At the time of the invention, it would not have been *prima facie* obvious to one of ordinary skill in the art to combine Nash et al. and Obanai et al. to make the instant invention.

Conclusion

This application appears to be in condition for allowance, therefore passage to issuance is respectfully requested. As filed, this application contained 3 independent claims and 17 dependent claims. As of this amendment, 2 independent claims and 6 dependent claims have been cancelled. With this amendment, 4 new dependent claims have been added, totaling 1 independent claim and 15 dependent claims, therefore it is believed that no claim fees are due. This amendment is accompanied by a check in the amount of \$225 for a two month extension of time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L-26', with a long horizontal flourish extending to the right.

Laura L. Conley
Reg. No. 54,653

AeroGrow International, Inc.
900 28th St. Suite 201
Boulder, CO 80303
Phone (303) 444-7755
Fax (303) 444-0406
LLC: 3/24/05
Docket 03-02